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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

Case No. 3770

13 **ARUTYUN BAGDATYAN**
14 **a.k.a., ARUTYAN BAGDATYAN**
13518 Bassett Street
15 Van Nuys, CA 91405

STATEMENT OF ISSUES

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about April 15, 2010, the Board of Pharmacy (Board) received an application
23 for a Pharmacist Intern License from Arutyun Bagdatyan, also known as Arutyun Bagdatyan
24 (Respondent). On or about April 5, 2010, Respondent certified under penalty of perjury to the
25 truthfulness of all statements, answers, and representations in the application. The Board
26 denied the application on May 28, 2010.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless
4 otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the applicant
8 has one of the following:

9 "(1) Been convicted of a crime. A conviction within the meaning of this section means
10 a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
11 board is permitted to take following the establishment of a conviction may be taken when the
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or
13 when an order granting probation is made suspending the imposition of sentence, irrespective
14 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
16 benefit himself or herself or another, or substantially injure another.

17 "(3) (A) Done any act that if done by a licentiate of the business or profession in
18 question, would be grounds for suspension or revocation of license.

19 (B) The board may deny a license pursuant to this subdivision only if the crime or
20 act is substantially related to the qualifications, functions, or duties of the business or
21 profession for which application is made."

22 5. Section 490 states, in pertinent part:

23 "(a) In addition to any other action that a board is permitted to take against a licensee, a
24 board may suspend or revoke a license on the ground that the licensee has been convicted of a
25 crime, if the crime is substantially related to the qualifications, functions, or duties of the
26 business or profession for which the license was issued.

27 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
28 discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or
2 duties of the business or profession for which the licensee's license was issued.

3 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or
4 a conviction following a plea of nolo contendere. Any action that a board is permitted to take
5 following the establishment of a conviction may be taken when the time for appeal has elapsed,
6 or the judgment of conviction has been affirmed on appeal, or when an order granting probation
7 is made suspending the imposition of sentence, irrespective of a subsequent order under the
8 provisions of Section 1203.4 of the Penal Code."

9 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
10 subject to discipline, including suspension or revocation.

11 7. Section 4301 states, in pertinent part:

12 "The board shall take action against any holder of a license who is guilty of
13 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
14 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
15 following:

16

17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in
24 order to fix the degree of discipline or, in the case of a conviction not involving controlled
25 substances or dangerous drugs, to determine if the conviction is of an offense substantially
26 related to the qualifications, functions, and duties of a licensee under this chapter. A plea or
27 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
28 conviction within the meaning of this provision. The board may take action when the time for

1 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
2 order granting probation is made suspending the imposition of sentence, irrespective of a
3 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his
4 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
5 dismissing the accusation, information, or indictment.

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7 "(p) Actions or conduct that would have warranted denial of a license."

8 **REGULATORY PROVISIONS**

9 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

10 "For the purpose of denial, suspension, or revocation of a personal or facility license
11 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code,
12 a crime or act shall be considered substantially related to the qualifications, functions or duties
13 of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of
14 a licensee or registrant to perform the functions authorized by his license or registration in a
15 manner consistent with the public health, safety; or welfare."

16 **FIRST CAUSE FOR DENIAL OF APPLICATION**

17 **(Conviction of a Crime)**

18 9. Respondent's application is subject to denial under section 480, subdivision (a)(1),
19 in that Respondent was convicted of a crime. On or about September 11, 2007, after pleading
20 *nolo contendere*, Respondent was convicted of one felony count of violating Penal Code
21 section 484E, subdivision (b) [grand theft of access cards] in the criminal proceeding entitled
22 *The People of the State of California v. Arutyun Bagdatyan* (Super. Ct. Los Angeles County,
23 2007, No. LA055059). The Court sentenced Respondent to two years in state prison and
24 placed him on three years formal probation, with terms and conditions. The circumstances
25 surrounding the conviction are that on or about July 22, 2006, while employed at KB Toys, in
26 Sherman Oaks, CA, Respondent skimmed 17 credit cards of customers and provided the credit
27 card numbers to another. He was paid \$50.00 for each credit card number. The credit cards
28 were fraudulently used to purchase approximately \$20,000.00 worth of merchandise.

